

REMARKS

The Specification has been amended by including an Abstract on a separate page.

Claim 1 has been amended to restrict the range of the value of x such that, $2.25 \leq x \leq 3.6$.

The value of 2.25 for the lower limit of x is specifically supported in our Specification, for example, in Table 4 on page 30.

Claim 2 has been amended to specify the value of z as $z=0.5-2.6$ ie as it appears in original claim 6, indicated by the Examiner as allowable.

Claim 3 has been amended to depend from claim 2, and to specify only the value of y.

Claim 9 has been cancelled.

Claim 22 has been amended to specify the value of x as 2.25-3.6.

Turning to the prior art issues raised by the Examiner, claims 1-5, 13 and 14 were rejected under 35 U.S.C. 102(b), as being anticipated by Dahn et al. 5, 858,324.

With all due respect, our the effective date of the reference is within the one year grace period immediately preceding our US filing date. Accordingly, 102(b) does not apply.

Moreover, since in rejected Claim 1, our claimed range for the value of x is outside the range disclosed in the reference, there is no basis for anticipation.

The Examiner's attention is also directed to the lengthy analysis of the lack of relevance of this reference in our Specification. Clearly, Dahn's own data shows that for values of x above 2, there is a detrimental effect on the utility of the material as a cathode in a lithium ion cell.

Further, it is noted that Dahn only discloses two examples of materials wherein the value of x is greater than 2, that is 2.2. Accordingly, there is no enablement at all for values greater than 2.2.

However, in order to expedite the prosecution, we have amended the value of x in claims 1 and 22.

Claims 15-21 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Dahn et al. in combination with Davidson et al. 5,370,949.

First, as mentioned above, Dahn et al. is not citable under 102(b), which provides basis for the 103(a) rejection. Accordingly, an Obviousness rejection on this basis is untenable.

Moreover, the same arguments as presented above in relation to lack of anticipation by Dahn et al., apply equally to the obviousness issue.

Moreover, the Examiner will appreciate that most of the examples of compounds disclosed by Dahn et al., are covered in our previous Davidson et al US patent. The Examiner will note that the only new composition disclosed by Dahn et al. is $Li_{2.2}Cr_{1.25}Mn_{0.75}O_{4+z}$. As mentioned above, Dahn et al. shows that this material has poor performance as a cathode material in a lithium ion cell.

Accordingly, withdrawal of this 103(a) rejection is believed to be in order.